COURT FEE 5 RS. भारत INDIA पाँच रुपये FIVE RUPEES CANCELLED COURT FEE 5 RS. भारत INDIA पाँच रुपये FIVE RUPEES

(3)

CF19F

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Single Bench

C.R. No 27 /2004

APPLICANT : Mahmood Khan S/o Mohammad Khan, aged about 50 Years, Occupation Driver, R/o Village Navapara, Surajpur, P.S. & Tahsil Surajpur District Sarguja (C.G.)

Claimant

VERSUS

RESPONDENTS : 1. Mohd. Shafi S/o Mohd. Yaqub Musalman, Occupation Driver, R/o Village Godiward, Pusad District Yavatmal (M.S.)

Non-applicants

P.R. No. 2427/04 Presented by Shri D.N. Pandey dated 20.12.04

2. Mohd. Iqbal S/o Hazi Noormohmmad , Musalman, Occpation Owner, R/o Lohar Line, Pusad District Yavatmal (M.S.)

3. National Insurance Co. Ltd. Through Branch Manager, Regional Office Shivaji Marg Pune Amravati (M.S.)

CIVIL REVISION UNDER SECTION 115 OF THE CODE OF CIVIL PROCEDURE

(Being aggrieved by the order dated 3.11.03 passed by the IInd Motor Accident Claims Tribunal, F.T.C. Surajpur, District Sarguja in Case No. 1/03)

The applicant begs to submit as under :-

FACTS

1. That, the applicant has filed a claim petition

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HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

CIVIL REVISION NO. 27 of 2004

Mohd. Khan
Vs.
Mohd. Shafi and others

ORDER

Post for: 10th 03-2004

Sd/-
L.C.BHADOO
Judge

9th-03-2004

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HIGH COURT OF CHHATTISGARH, BILASPUR

CIVIL REVISION NO. 27 of 2004

Mohd. Khan
Vs.
Mohd. Shafi and others.

Present:

Shri D.N. Prajapati, counsel for petitioner.

O R D E R

(Passed on 04 March, 2004)

As per L.C. Bhadoo, J.

The applicant/claimant namely Mahmood Khan has preferred this civil revision being aggrieved by the order dated 03/11/2003 passed by the IInd Motor Accident Claims tribunal (F.T.C), Surajpur, District Sarguja in case no.1/2003.

2. The brief facts giving rise to filing of this civil revision are that the applicant filed a case for grant of compensation against the respondents on account of the injuries suffered by him in a motor vehicle accident of which the respondent no.1 was a driver and respondent no.2 is the owner of that motor vehicle. In motor accidents claim no. is 37/2002 vide its order dated 23/11/2002 the learned Motor Accidents Claims Tribunal awarded the accident claim of Rs.68,500/- and further directed for payment of interest w.e.f. 18/08/2000 and directed to deposit the said amount in a fixed deposit of 5 years in a nationalized bank. Accordingly that amount has been deposited.

3. The applicant herein made an application before the Tribunal for releasing the amount of Rs.79,942/- as the same was required to pay

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Rs.20,000/- to his Truck owner from whom he took that money for the purpose of treatment and also for paying the fees to his advocate and also for the marriage of his daughter. On account of the injuries sustained by the claimant he is not able to drive the vehicle and there is no source of earning as such he be permitted to withdraw the amount of Rs.79,942/- deposited in the fixed deposit.

4. The learned Tribunal rejected the application and in support of the application the claimant got examined Rambhaj Agarwal, the owner of the truck and the Tribunal allowed the withdrawal of the interest amount of Rs.11,600/-and rejected the rest of the request.

5. I have heard learned counsel for the applicant.

6. In this connection the Hon'ble Apex court in the matter of K.S. **R.T.Corporation Vs. Susamma Thomas and others, reported in AIR 1994 SC 1631** issued the guidelines regarding the deposit of accident claim in the fixed deposit and the circumstances under which the application can be allowed for withdrawal of the amount of the accident claim from the fixed deposit. Under those guidelines the Hon'ble Apex Court has issued guidelines that in case of illiterate claimants, the Claims Tribunal should follow the procedure set out in (i) but if lump sum payment is required for effecting purchases of any movable or immovable property, such as agricultural implements, rickshaw etc., to earn a living, the Tribunal may consider such a request after making sure that the amount is actually spent for the purpose and the demand is not a rouge to withdraw money and the Tribunal is required to ensure and to safeguard the feed from being flittered away by the beneficiary due to ignorance, illiteracy or susceptibility to exploitation. As per the guidelines issued in the above case, the Tribunal is required to safeguard the interest of the claimant while allowing the premature withdrawal, the paramount

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consideration before the Tribunal is to ensure the larger interest of the claimant.

7. In view of the above guidelines issued by the Hon'ble Apex Court, if we look into the present case of the applicant, the applicant has mentioned that money is required for making the payment of Rs.20,000/- to his owner which he took at the time of treatment, further payment to his advocate and also for the purpose of the marriage of his daughter. It appears from the application made by the applicant that he has not mentioned in the application that when the marriage of his daughter was fixed, but he simply stated that this year his daughter's marriage is going to take place. As far as medical expenses are concerned, the Tribunal has already ordered for release of Rs.11,600/-and the other amount was not allowed to be withdrawn by the applicant as the same was considered to be in the interest of the benefit of the claimant.

8. I do not find any illegality in the impugned order, therefore, this revision is liable to be dismissed and the same is dismissed.

Sd/-
L.C.BHADOO
Judge

/6/03/2004

Raju